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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 RICARDO GONZALEZ,) NO. CV 10-01100 AHM (SS)
12 Plaintiff,)
13 v.) MEMORANDUM AND ORDER DISMISSING
14 LOS ANGELES COUNTY SHERIFF'S) COMPLAINT WITH LEAVE TO AMEND
15 DEPARTMENT, et al.,)
16 Defendants.)
17

18 I.
19 INTRODUCTION
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21 On February 19, 2010, Ricardo Gonzalez ("Plaintiff"), a federal
22 prisoner proceeding pro se, filed his Complaint pursuant to 42 U.S.C. §
23 1983 (the "Complaint") against various defendants. On April 14, 2010,
24 the Court dismissed the Complaint with leave to amend for various
25 deficiencies in pleading. Petitioner filed his First Amended Complaint
26 (or "FAC") on May 20, 2010. For the reasons stated below, the First
27 Amended Complaint is dismissed with leave to amend.
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1 Congress has mandated that district courts perform an initial
2 screening of complaints in civil actions where a prisoner seeks redress
3 from a governmental entity or employee. 28 U.S.C. § 1915A(a). This
4 Court may dismiss such a complaint, or any portions thereof, before
5 service of process if it concludes that the complaint (1) is frivolous
6 or malicious, (2) fails to state a claim upon which relief can be
7 granted, or (3) seeks monetary relief from a defendant who is immune
8 from such relief. 28 U.S.C. § 1915A(b); see also Lopez v. Smith, 203
9 F.3d 1122, 1126 & n.7 (9th Cir. 2000) (en banc).

11 II.

12 ALLEGATIONS OF THE COMPLAINT

14 The Complaint identifies three defendants: (1) the Los Angeles
15 County Sheriff's Department ("Sheriff's Department"); (2) Los Angeles
16 County Deputy Sheriff Michael Chaccon; and (3) Los Angeles County Deputy
17 Sheriff James Gideon. (FAC at 2). Plaintiff claims that Deputy Chaccon
18 and Deputy Gideon violated his civil rights "by using excessive force,
19 . . . by unreasonable search and seizure, and by denying [P]laintiff .
20 . . . needed medical care." (Id. at 4). He asserts that the Sheriff's
21 Department "failed to properly employ, train, and introduce departmental
22 policies" to Defendants Chaccon and Gideon. (Id. at 2; see also id. at
23 7 ("Defendant [Sheriff's Department] failed to properly train and set
24 policies [for] these officers.")).

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1 municipality under § 1983, a plaintiff must identify a specific policy
2 that caused his injury. See Bd. of County Comm'rs of Bryan County,
3 Okla. v. Brown, 520 U.S. 397, 403-04, 117 S. Ct. 1382, 137 L. Ed. 2d 626
4 (1997); see also Iqbal v. Ashcroft, 129 S. Ct. 1937, 1951, 173 L. Ed. 2d
5 868 (2009) (requiring specific allegations regarding the policy at issue
6 in a civil rights case).

7
8 This is true even when a plaintiff asserts that municipal inaction
9 caused his injury. "[I]nadequacy of police training may serve as the
10 basis for § 1983 liability only where the failure to train amounts to
11 deliberate indifference to the rights of persons with whom the police
12 come in contact." City of Canton v. Harris, 489 U.S. 378, 388, 109 S.
13 Ct. 1197, 103 L. Ed. 2d 412 (1989). Importantly, in order to succeed on
14 such a claim, a plaintiff must identify in what respect, specifically,
15 the municipality failed to train its employees and how that failure to
16 train caused the constitutional violation. See id. at 389 ("Only where
17 a municipality's failure to train its employees in a relevant respect
18 evidences a deliberate indifference to the rights of its inhabitants can
19 such a shortcoming be properly thought of as a city policy or custom
20 that is actionable under § 1983." (internal quotation marks omitted and
21 emphasis added)). Thus, failure to identify the area in which there was
22 a failure to train subjects a civil rights claim to dismissal for
23 failure to state a claim. See S.J. v. Perspectives Charter School, 685
24 F. Supp. 2d 847, 857 (N.D. Ill. 2010) ("Here, [plaintiff] alleges no
25 specific policies, practices and customs of [d]efendants other than
26 failure to properly train employees. [Plaintiff's] pleading of this
27 Count amounts to mere 'legal conclusions' without 'show[ing] that
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1 [Plaintiff] is entitled to relief.'" (quoting Iqbal, 129 S. Ct. at 1950)
2 (internal citations and quotation marks omitted)).

3
4 In the present case, Plaintiff alleges only that the Sheriff's
5 Department is subject to liability based on its "fail[ure] to properly
6 employ, train, and introduce departmental policies" to its employees.
7 (FAC at 2). He has alleged that some kind of policy existed, but has
8 not identified a specific policy. Insofar as Plaintiff is suing a
9 municipal entity, he must identify how Defendants' inadequate training
10 in some specific official municipal policy violated Plaintiff's
11 constitutional rights. Bd. of County Comm'rs, 520 U.S. at 403-05; City
12 of Canton, 489 U.S. at 388; S.J., 685 F. Supp. 2d at 857. Plaintiff has
13 not done so. However, he is given leave to amend to correct this
14 deficiency.

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16 **IV.**

17 **CONCLUSION**

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19 If Plaintiff still wishes to pursue this action, he is granted
20 thirty (30) days from the date of this Memorandum and Order within which
21 to file a Second Amended Complaint, curing the defects in the First
22 Amended Complaint described above. The Second Amended Complaint, if
23 any, shall be complete in itself and shall bear both the designation
24 "Second Amended Complaint" and the case number assigned to this action.
25 It shall not refer in any manner to the prior complaints. The caption
26 shall include all parties that Plaintiff is suing. Each page of the
27 Second Amended Complaint must be consecutively numbered.

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2 In any amended complaint, Plaintiff should confine his allegations
3 to those operative facts supporting each of his claims. Plaintiff is
4 advised that pursuant to Federal Rule of Civil Procedure 8(a), all that
5 is required is a "short and plain statement of the claim showing that
6 the pleader is entitled to relief." **Plaintiff is strongly encouraged to**
7 **utilize the standard civil rights complaint form when filing any amended**
8 **complaint, a copy of which is attached.** Plaintiff should make clear
9 which defendant committed a particular act of misconduct. Individuals
10 who have not engaged in any alleged misconduct should not be named as
11 defendants. It is not necessary for Plaintiff to cite case law or
12 include legal argument. Moreover, irrelevant exhibits or other
13 extraneous documents are not necessary for Plaintiff to include with his
14 complaint.

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16 **Plaintiff is explicitly cautioned that failure to timely file a**
17 **Second Amended Complaint, or failure to correct the deficiencies**
18 **described above, will result in a recommendation that this action be**
19 **dismissed for failure to prosecute pursuant to Federal Rule of Civil**
20 **Procedure 41(b).** Plaintiff is further advised that, if he does not wish
21 to pursue this action, he may voluntarily dismiss it by filing a notice
22 of dismissal in accordance with Federal Rule of Civil Procedure
23 41(a)(1). A sample notice is attached to this order as well.

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25 DATED: June 9, 2010

/S/

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SUZANNE H. SEGAL
UNITED STATES MAGISTRATE JUDGE